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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/777,004	02/10/2004	Alfred Thomas	47079-00236USPT	3402
76243 7590 02/27/2009 NIXON PEABODY LLP 161 N CLARK ST. 48TH FLOOR CHICAGO, IL 60601-3213				
EXAMINER				
HALL, ARTHUR O				
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3714				
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**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

# Office Action Summary

Application No.

10/777,004

Applicant(s)

THOMAS, ALFRED

Examiner

ARTHUR O. HALL

Art Unit

3714

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☒ Responsive to communication(s) filed on 27 January 2009.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 1-29, 32-41 and 50-57 is/are pending in the application.
- 4a) Of the above claim(s) 1-15, 36-41 and 50-53 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 16-29, 32-35 and 54-57 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 10 February 2004 and 04 February 2008 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

## Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

## Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-646)
- 3) ☐ Information Disclosure Statement(s) (PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: \_\_\_\_\_

## **DETAILED ACTION**

### ***Response to Amendment***

Examiner acknowledges applicant's amendment of claims 16, 25, 32 and 33, cancellation of claims 30 and 31, cancellation of claims 42-49 in the Response dated 6/12/2008 directed to Non-final Office Action dated 8/3/2007, and withdrawal of claims 1-15, 36-41 and 50-53 in the Response dated 1/27/2009 as part of the Request for Continued Examination directed to the Final Office Action dated 8/27/2008. Claims 1-41 and 50-57 are pending in the application and subject to examination as part of this office action.

Examiner acknowledges that applicant's arguments in the Response dated 1/27/2009 as part of the Request for Continued Examination directed to the rejection set forth under 35 U.S.C. 103(a) in the Final Office Action dated 8/27/2008 are deemed moot in light of a new ground of rejection under 35 U.S.C. 103(a) as set forth below in view of applicant's amendments and in view of applicant's arguments.

### ***Claim Rejections - 35 USC § 103***

Examiner sets forth new grounds of rejection under 35 U.S.C. § 103(a) with respect to amended features as described below because each of the features of applicant's claimed invention as amended continues to be unpatentable or obvious over the prior art.

The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

Claims 16-18, 25, 27, 32-33 and 54-57 are rejected under 35 U.S.C. 103(a) as being unpatentable over Piechowiak et al. (US Patent 6,012,982; hereinafter Piechowiak) in view of Olsen (US Patent 6,146,273), and further in view of Shuster (US Patent 7,465,229). Features are described by figures with reference characters where necessary for clarity.

Examiner submits that a gaming terminal merely “capable of” executing a process achieving plural winning outcomes as recited by claim 16 is intended use language and is not given patentable weight when evaluating the claim because the term “capable of” suggests or makes optional the steps recited, does not limit a claim to a particular structure and does not limit the scope of the claim (See MPEP 2106 II, C. Review the Claims). Therefore, Examiner submits that applicants’ claims are interpreted as broadly as reasonably allowed in light of the specification in accordance with *In re Zletz* (See *In re Zletz*, 13 USPQ2d 1320, 1322 (Fed. Cir. 1989)).

Regarding claim 16, Piechowiak teaches  
a gaming system (column 2, lines 55-56 and Fig. 1, 100, Piechowiak), comprises:  
a plurality of gaming terminals for playing a basic wagering game in response to receiving wager inputs from players, each of said plurality of gaming terminals capable of achieving a plurality of winning outcomes that have a corresponding payout amount, said plurality of winning outcomes being determined by various symbol combinations

(column 2, lines 56-66, column 3, lines 1-11 and column 9, lines 14-25, Piechowiak; plural gaming machines are linked for playing slot machine games that are initiated based on a players coin wager, wherein the gaming machines provide digital codes that represent symbols combinations for winning outcomes),

each of said plurality of gaming terminals including a display for displaying a pay table with each of said plurality of winning outcomes and said corresponding payout amount, a majority of said payout amounts providing a progressive award (column 3, lines 12-21, column 6, lines 17-31, column 9, lines 26-43 and Fig. 1, 101-108, Piechowiak; plural gaming machines each have a display for displaying symbols combinations for winning outcomes that are associated with award values stored in an award table, wherein most of the payouts achieved based on the award table and a bonus hit are bonus awards with value incremented based on a counter or progressive awards, and it would have been obvious at the time of invention to try an implementation in which the payable of Piechowiak is displayed since the feature controller enables display of the current status of the feature associated with the award from the award table); and

a controller coupled to each of said plurality of gaming terminals and receiving wager-input signals from said plurality of gaming terminals (column 2, lines 66-67 and Fig. 1, 110, column 3, lines 32-50, column 4, lines 23-38 and column 5, lines 35-40, Piechowiak; a feature controller or controller is coupled to the plural gaming machines and controls the receipt of coin wager inputs by the player from each of the plural gaming machines and modification of the award table in each of the plural gaming machines).

However, Piechowiak does not appear to teach allocating portions of a wager among progressive awards based on a wager input from a gaming machine/terminal as claimed. Therefore, attention is directed to Olsen, which teaches

in response to receiving a wager-input signal from one of said plurality of gaming terminals, said controller allocating portions of said wager input among said progressive

awards (column 6, line 50 to column 7, line 3, column 7, lines 26-49 and Fig. 2, 200, Olsen; an amount or percentage of a unit bet or wager is allocated or apportioned by a controller among current gaming machine payable incremented bonus values or progressive awards based on insertion of monetary value or a wager by the player).

Piechowiak teaches a system in which plural gaming machines under the control of a controller update or modify award/pay table amounts based on a feature enabled from polled game results from each gaming machine based at least in part on each players wagers, whereby the payable is displayed on each game machine (column 3, lines 1-11 and lines 31-50, column 4, lines 24-38, column 6, lines 17-31 and column 9, lines 14-43, Piechowiak). Olsen teaches a system in which plural gaming machines under the control of a controller update stored weighted payable payout amounts that are configurable for display on each gaming machine (column 5, lines 16-22 and lines 39-52, column 6, lines 50-53, column 16, line 65 to column 17, line 5, column 27, line 63 to column 28, line 29, Olsen). Piechowiak provides an incentive to combine its payable amount update or modification and display features with the payable update features disclosed by Olsen to achieve display of updated or modified pay table amounts during game play on each gaming machine because one having ordinary skill in the art would have known to display the updated or modified payouts on the disclosed game machines display in order to inform players of payable amounts for given outcomes for game play, which is a well known requirement in the gaming industry.

Thus, it would have been obvious to one having ordinary skill in the art at the time the applicant's invention was made to include pay table payout amount update or modify and display feature as taught by Piechowiak to provide continuous update of pay

table payouts during a game when utilized with the payable update and store feature as taught by Olsen because both Piechowiak and Olsen teach similar devices that perform payable payout update functionality using analogous structure that is adaptable to simplify device operation and enhance productivity of the player by allowing the updated payout amounts during game play to be displayed during game.

However, Piechowiak alone or in combination with Olsen does not appear to teach updating the progressive awards of the payable of each gaming machine based on portions of the wager input from other gaming machines and continuously displaying the payable during updating of the progressive awards as claimed. Therefore, attention is directed to Shuster, which teaches

in response to receiving a wager-input signal from one of said plurality of gaming terminals, said controller sending an update pay-table signal to said plurality of gaming terminals to instruct said plurality of gaming terminals to update said corresponding payout amounts within said pay table, said pay table being continuously displayed as said payout amounts are being updated (column 4, lines 7-20, column 5, lines 23-35 and column 6, lines 9-27, Shuster; a payout table of a gaming slot machine is updated with adjusted or increased values and the increased values of the payout table reflected when displayed on the display during the progress of game play based on initial and/or additional wagers being made during the game, and it would have been obvious at the time of invention to try an implementation in which the each slot machine disclosed in Piechowiak alone or in combination with Olsen is updated since one having ordinary skill in the art would have known to integrate the slot machines functions of Shuster in the slot machines of Piechowiak alone or in combination with Olsen since both devices perform similar functions using common structure without need for modification).

Shuster suggests that a device that maintains the appealing features of slot machine gaming while simultaneously allowing the player to have greater interaction during game play via more influence over the probability of winning will eliminate the effect of boring players from monotony resulting from minimal interaction in the game, thereby causing the players' interest to be held for more plays of a game, and induce new players to play slot games (column 1, line 22 to column 2, line 11, Shuster).

Thus, it would have been obvious to a person having ordinary skill in the art at the time the applicant's invention was made to modify Piechowiak in view of the teachings of Olsen, and further in view of the teachings of Shuster for the purpose of upgrading the payable and display features disclosed by Piechowiak alone or in combination with Olsen with the continuous payable update and display features disclosed by Shuster in order to eliminate the effect of boring players from monotony resulting from minimal interaction in the game, thereby causing the players' interest to be held for more plays of a game, and induce new players to play slot games by maintaining the appealing features of slot machine gaming while simultaneously allowing the player to have greater interaction during game play via more influence over the probability of winning.

Regarding claim 25, the scope of the claim for the method of operating the system is inherent with respect to claim 16 above in view of the structure disclosed by Piechowiak, Olsen and Shuster since the method is the normal and logical manner by which the system is employed.



Regarding claims 17 and 32, the update pay-table signal is sent on a real-time basis, **or in other words**, the progressive awards are continuously displayed as said progressive awards are being increased on a real-time basis (column 5, lines 39-52, column 17, lines 18-27 and Fig. 1, 2-5, Olsen; linked gaming machines provide the player a chance to win a jackpot value based on outcomes that are continually updated or available, which is inherently on a real-time basis, and it would have been obvious at the time of invention to try an implementation in which the payout amounts corresponding to percentages/outcomes stored in the gaming machine are displayed on each gaming machine display of Piechowiak since Olsen discloses updated progressive values (column 7, lines 26-49, Olsen) and Shuster disclose that prize amounts are determined based on wagered amounts and a final payout table (column 6, lines 9-27, Shuster), and because one having ordinary skill in the art would have understood that it is well known that players are required to have knowledge of payable amounts for given outcomes for game play).

Regarding claims 18 and 33, the update pay-table signal is are sent on a periodic basis, **or in other words**, the progressive awards are continuously displayed as said progressive awards are being increased at each of the plurality of gaming terminals after one of the said sessions (column 6, lines 43-50 and column 7, lines 50-60, Olsen; the random number generator selects bonus mode values for each bonus mode time period, and it would have been obvious at the time of invention to try an implementation in which the payout amounts corresponding to percentages/outcomes stored in the gaming machine are displayed on each gaming machine display of Piechowiak since Olsen discloses updated progressive values (column 7, lines 26-49, Olsen) and Shuster disclose that prize amounts are determined based on wagered amounts and a final payout table (column 6, lines 9-27, Shuster), and because one having ordinary skill in the art would have understood that it is well known that players are required to have knowledge of payable amounts for given outcomes for game play).

Regarding claim 27, some of the plurality of sessions occur sequentially at one of the plurality of gaming terminals (column 7, line 66 to column 8, line 10, Olsen; eligible players play game sessions one after another at a gaming machine since other eligible players obtain unexpected notice of players at a gaming machine when they sign on).

Regarding claim 30, displaying the payout amounts associated with each of the plurality of winning outcomes on the plurality of gaming terminals or at least one gaming terminal is disclosed (column 28, line 56 to column 29, line 11, Olsen).

Regarding claim 31, the continuously updating said payout amounts and displaying said updated payout amounts on said plurality of gaming terminals or at least one gaming terminal is disclosed (column 17, lines 18-27 and column 28, line 56 to column 29, line 11, Olsen).

Regarding claims 54 and 56, the other winning outcomes not in said majority of said winning outcomes are associated with payment amounts funded by a local gaming machine (column 3, lines 1-11 and lines 31-50, column 4, lines 24-38 and column 6, lines 17-31 and column 9, lines 14-43, Piechowiak; the controller determines a win based on polled game results from each gaming machine in order to update or modify the payout criteria of an award/pay table stored in each gaming machine to reflect the enabled feature, and it would have been obvious at the time of invention to try an implementation in which the any outcomes that are not associated with the enable feature are winning outcomes associated with payout amounts funded or paid by the local game machine since one having ordinary skill in the art would have understood that the update or modification of any payable amounts occurs based on player wager inputs at a local machine or wager inputs at other machines in order to award a common bonus, whereby winning outcomes not associated with the bonus would be associated with local wagers by a player at a local gaming machine to achieve an award).

Regarding claims 55 and 57, the local wager inputs from said local gaming machine are allocated among said other winning outcomes, and said corresponding payout amounts within said displayed pay table on said local gaming machine are updated, **or in other words**, the apportioning includes apportioning local wager inputs from said local gaming machine among said other winning outcomes so as to increase said displayed payout amounts on said local gaming machine (column 3, lines 1-11 and lines 31-50, column 4, lines 24-38 and column 6, lines 17-31 and column 9, lines 14-43, Piechowiak; the controller determines a win based on polled game results from each gaming machine in order to update or modify the payout criteria of an award/pay table stored in each gaming machine to reflect the enabled feature, and it would have been obvious at the time of invention to try an implementation in which the local wagers and wagers from other gaming machines are apportion among winning outcomes so that corresponding payout amounts in the pay table are updated since one having ordinary skill in the art would have understood that the update or modification of any payable amounts occurs based on player wager inputs at a local machine or wager inputs at other machines in order to award a common bonus).

Claims 19-24, 26, 28-29 and 34-35 are rejected under 35 U.S.C. 103(a) as being unpatentable over Piechowiak in view of Olsen, further in view of Shuster, and even further in view of Xidos et al. (US Patent 5,851,149; hereinafter Xidos). Features are described by figures with reference characters where necessary for clarity.

Piechowiak alone or in combination with Olsen and Shuster teaches features of the claimed invention as described above.

However, Piechowiak alone or in combination with Olsen and Shuster does not appear to teach the player identification features as claimed. Therefore, attention is directed to Xidos, which teaches

Regarding claims 24 and 26, the input device or plurality of gaming terminals further receive player-identification information that is transmitted to said controller, the controller allowing the basic wagering game with the continuously updated pay table to be operable or conducted by a player in response to said player-identification information meeting certain criteria, or in other words, receiving player-identification information, the conducting, apportioning, and also awarding only occurring in response to said player-identification information meeting certain criteria is disclosed (column 5, lines 26-43, column 12, lines 52-67 and Fig. 1, 16, Xidos; a player's credit card including player identification is required to authorize playing a base game from any of the plural gaming machines).

Xidos suggests that a gaming system that integrates linked plural gaming devices into distributed sites over a wide area network that can identify player's having player identification will remove the limitation of gaming systems having to function only within local area networks (column 1, lines 11-30, Xidos).

Thus, it would have been obvious to one having ordinary skill in the art at the time the applicant's invention was made to modify Piechowiak in view of the teachings of Olsen, further in view of the teachings of Shuster, and even further in view of the teachings of Xidos for the purpose of providing the gaming device of Piechowiak alone or in combination with Olsen and Shuster having credit or ticket in features for credit play that are interchangeable with or upgradeable to the player identification features of Xidos in order to expand gaming systems from local area networks only to broader wide area networks that allowing player identification from remote, distributed gaming devices.

Regarding claim 19 and 29, the plurality of gaming terminals are a bank of terminals located within one gaming establishment and the controller is located within said gaming establishment, or in other words, the apportioning is accomplished by a controller located within the gaming establishment (column 4, lines 17-52, column 8, line 64 to column 9, line 20 and Fig. 1, 12 and 18, Xidos; a bank or group of plural gaming terminals or top boxes are distributed throughout a hotel establishment having a server or controller also located within the hotel establishment).

Regarding claim 20 and 28, the plurality of gaming terminals are located in one gaming establishment and said controller is located remotely from said gaming establishment, or in other words, the apportioning is accomplished by a controller located remotely from said plurality of gaming terminals (column 4, lines 17-52, column 9, lines 22-34 and column 10, lines 35-42, Xidos; a bank or group of plural gaming terminals or top boxes are distributed throughout a hotel establishment and a server or controller via a wide area network is located remote within a different hotel establishment).

Regarding claim 21, the plurality of gaming terminals are located in different gaming establishments (column 9, lines 22-34 and column 10, lines 35-42, Xidos; plural linked gaming terminals or top boxes are distributed throughout a number of hotel establishments and communicate within a gaming system over a wide area network).

Regarding claim 22 and 34, the controller allocates the portions of the wager inputs only to selected ones of the plurality of winning outcomes, or in other words, the apportioning of the wager inputs is for only selected ones of the plurality of winning outcomes (column 15, lines 28-56, Xidos; eligibility of the player for at least one jackpot is determined by the random generation of jackpot numbers by the system processor

based on wager inputs).

Regarding claim 23 and 35, the unselected ones of said plurality of winning outcomes receive a portion of wager inputs inputted at only the local one of said plurality of gaming terminals (column 15, lines 28-56, Xidos; the system processor removes the random number generated for the player when the player becomes ineligible for jackpot, even though the player was original eligible based on wager inputs at a particular gaming device and it would have been obvious at the time of invention that the wagers provided by players who became ineligible were contributed to the winning outcome or jackpot before ineligibility occurred).

#### ***Response to Arguments***

Applicant's arguments filed in the Response dated 1/27/2009 as part of the Request for Continued Examination directed to the Examiners' rejection under 35 U.S.C. § 103(a) have been considered fully and are moot in light of a new ground of rejection under 35 U.S.C. 103(a) as set forth above in view of applicant's amendments and in view of applicant's arguments thereof.

Examiner has provided the above new grounds of rejection of the claims under 35 U.S.C. 103(a) because each of the features of applicant's claimed invention continues to be unpatentable or obvious over the prior art.

#### ***Conclusion***

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

B US-2005/0085285 A1, Muskin

C US-6,039,648, Guinn et al.

D US-6,802,778 B1, Lemay et al.

E US-6,077,162, Weiss

F US-4,837,728, Barrie et al.

G US-6,068,553, Parker

H US-7,297,059 B2, Vancura et al.

I US-7,481,430 B1, Jackson et al.

J US-7,341,518 B2, Muskin

K US-7,018,293 B2, Brown et al.

L US-2002/0160827 A1, Slomiany et al.

M US-6,722,980 B2, Stronach.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to ARTHUR O. HALL whose telephone number is (571)270-1814. The examiner can normally be reached on Mon - Fri, 8:00am - 5:00 pm, Alt Fri, EST.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Peter Vo can be reached on (571) 272-4690. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/A. O. H./  
Examiner, Art Unit 3714

/Peter D. Vo/  
Supervisory Patent Examiner, Art Unit 3714